IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 21132 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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HASAN AMAD GARDERA - Petitioner(s)

Versus

STATE OF GUAJRAT & 1 - Respondent(s)

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Appearance :

MR ZUBIN F BHARDA for Petitioner(s) : 1,
MR. DIPEN DESAI, ASST. GOVERNMENT PLEADER for Respondent(s) : 1,
None for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 18/10/2005

ORAL JUDGMENT

1.In this petition under Article 226 of the Constitution of India, the petitioner has challenged the legality and validity of the judgment and order passed by the

State Government dated 31.8.2005 passed in appeal No.98/2005 in dismissing the same and confirming the order passed by the District Development Officer, Junagadh dated 21.4.2005 by which the petitioner came to be removed under Section 57(1) of the Gujarat Panchayat Act as a Sarpanch of Dari Gram Panchayat, Taluka Veraval.

2. It is the contention of the petitioner that the petitioner came to be removed on the ground that the petitioner was facing some criminal action under Section 200 of the Indian Penal Code pursuant to the order passed by the learned JMFC, Veraval dated 12.4.2004 recorded below application exh.111 in Criminal Case No.1968/86.

3. Shri Z.F.Bharda, learned advocate appearing on behalf of the petitioner has submitted that subsequently and after the disposal of the appeal before the State Government, the petitioner preferred Criminal Revision Application No.794/2005 challenging the order dated 12.4.2004 recorded below application exh.111 in Criminal Case No.1968/86 passed by the learned JMFC, Veraval and the same came to be allowed by the learned

Single Judge of this Court by its judgment and order dated 6.10.2005 and the learned Single Judge of this Court has quashed and set aside the order dated 12.4.2004 recorded below application exh.111 in Criminal Case No.1968/86 passed by the learned JMFC, Veraval and therefore, it is submitted that the base upon which the petitioner came to be removed is not in existence and therefore, it is requested to allow the present Special Civil Application.

4.It is required to be noted that in view of the subsequent development and quashing and setting aside the order dated 12.4.2004 recorded below application exh.111 in Criminal Case No.1968/86 passed by the learned JMFC, Veraval, which was the base upon which the petitioner came to be removed under Section 57(1) of the Gujarat Panchayat Act, the petitioner is required to approach the DDO, Junagadh who has passed earlier order and point out the DDO, Junagadh the subsequent development and requests him to reconsider its earlier order. Shri Bharda, learned advocate appearing on behalf of the petitioner has submitted that the petitioner will be making application/representation within a period of 10 days

from the date of receipt of this order. On receipt of the said application/representation, the DDO, Junagadh is directed to consider the same and consider the subsequent development and pass an appropriate order in accordance with law and on merits as early as possible preferably within a period of 6 weeks from the date of receipt of such application/representation.

5.With these observations and direction, the present Special Civil Application is disposed of.

Direct Service is permitted.

(M.R.SHAH, J.)

kdc.